IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

THURSDAY, THE 13TH DECEMBER 2007 / 22ND AGRAHAYANA 1929

OP.No. 2757 of 2002(C)

PETITIONER:

SAINABA KUNJU, PUTHEN PURACKAL
CEPPAD P.O, ALAPPUZHA.

BY ADV. SRI.L.MOHANAN
SRI.D.SAJEEV

RESPONDENTS:
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1. STATE OF KERALA REPRESENTED BY ITS SECRETARY, (REVENUE), GOVT.SECRETARIATE, THIRUVANANTHAPURAM.

2. SUPERINTENDING ENGINER, PUBLIC HEALTH CIRCLE, KERALA WATER AUTHORITY,KOTTAYAM.

3. EXECUTIVE ENGINEER, PUBLIC HEALTH DIVISION, KERALA WATER AUTHORITY,TIRUVALLA.

4. DEPUTY TAHASILDAR,REVENUE RECOVERY, HARIPAD.

5. VILLAGE OFFICER, CHINGOLI,KARTHIKAPALLY TALUK, ALEPPY DISTRICT.

* 6. DIRECTOR OF VIGILANCE, TRIVANDRUM.
(*IMPLEADED AS ADDITIONAL 6TH RESPONDENT VIDE ORDER DATED 13/09/06).

** 7. B.CHANDRASEKHARA PILLAI,
S/O. BALAKRISHNA PILLAI, AGED 61 YEARS,
RESIDING AT VASANTHAM, NJARAKKAD,
THALAVOOR.P.O., KOLLAM.
(** IMPLEADED AS ADDITIONAL R7 VIDE ORDER IN IA NO.6982/07 DATED 07/06/2007)

BY ADV. SRI.BABU VARGHESE, SC, KWA
SRI.SUNIL CYRIAC, SC, KWA
SRI.M.DINESH, SC, KWA
SMT.SMITHA, GOVERNMENT PLEADER
SRI.N.UNNIKRISHNAN

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 13/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

O.P.NO. 2757/2002

ORDER ON CMP NO.4957/2002 IN O.P.NO. 2757/2002

DISMISSED.

13/12/2007 SD/- (C.N.RAMACHANDRAN NAIR, JUDGE)

APPENDIX

PETITIONER'S EXHIBITS

P1 : COPY OF DEMAND NOTICE DATED 18/01/2002.

P2 : COPY OF ATTACHMENT NOTICE DATED 18/01/2002.

P3 : COPY OF LETTER OF 3RD RESPONDENT DATED 21/06/2000.

P3(a) : COPY OF LIST ALONG WITH LETTER.

P4 : COPY OF REPLY DATED 17/07/2000.

P5 : COPY OF ORDER DATED 07/04/1992.

P6 : COPY OF LETTER OF 3RD RESPONDENT DATED 06/03/1992.

RESPONDENT'S EXHIBITS

R2(a) : COPY OF LETTER NO.AB4.2961/84 DATED 03/10/98 ISSUED BY THE EXECUTIVE ENGINEER, THIRUVALLA.

R2(b) : COPY OF LETTER NO.AB4.2961/84 DATED 18/03/94 OF THE EXECUTIVE ENGINEER, THIRUVALLA.

R2(c) : COPY OF LETTER DATED 30/12/91.

R2(d) SERIES : COPY OF RECEIPTS SIGNED BY THE CONTRACTOR SHOWING THE ITEMS OF MATERIALS RECEIVED BY HIM.

R7(A) : COPY OF ORDER NO.KWA/HO/E2-11242/94 DATED 21/10/94.

R7(B) : COPY OF LETTER NO.WS11/93-94 DATED 22/11/1994.

// TRUE COPY //

PA TO JUDGE.

jg

C.N.RAMACHANDRAN NAIR, J.

O.P. No. 2757 of 2002

Dated, this the 13th day of December, 2007

J U D G M E N T

Petitioner in the original petition is the widow of a contractor, who was awarded a contract by the Water Authority. Even though the contract was cancelled, the materials like PVC pipes, AC pipes, valves, couplings etc., valued above Rs.18 lakhs, supplied to the contractor was not recovered by the Water Authority in time. However, years after the Water Authority proceeded for recovery against the contractor, who by then had died. When the matter came up before this Court on 13/09/2006, this Court felt that it is only on account of lapses on the part of the Water Authority officials, this loss has happened. Therefore, a vigilance enquiry was ordered and the vigilance had, based on the said interim order, conducted enquiry and filed report to the Water Authority. It is stated in the interim order that the Managing Director of the Water Authority will, on the basis of the vigilance report and after conducting enquiry, identify the officials who were in-charge of the said contract and supply of materials and fix liability on them. Since vigilance has submitted their report, it is for the Managing Director to act upon the same. However, I make it clear that

individual responsibility, if any, should be cast on the employees of the Water Authority only after identifying the role of such persons and after issuing show cause notice to them and after hearing objections. If any asset of the contractor is proceeded against, his legal heir, namely, the widow who filed this original petition, also should be heard before the recovery proceedings are ordered. Accordingly, this original petition is disposed of directing respondents to withdraw recovery proceedings for four months from now, within which time, the Managing Director should adjudicate the matter and fix liability based on vigilance report and materials gathered on his enquiry. Recovery proceedings after four months will be made in accordance with the order passed by the Managing Director, after hearing the parties.

2. Since the original petition is disposed of with the above directions, there is no need for this Court to decide the contentions raised by 7th respondent, who is free to raise his objections before the Managing Director, if there is any specific proposal holding him liable.

This original petition is disposed of as above.

(C.N.RAMACHANDRAN NAIR, JUDGE)

jg